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REMARKS

The Examiner has rejected Claims 1-5, 8-14, 18-23, 26-32, 36 and 39 under 35 U.S.C. 103(a) as being unpatentable over Fox et al. (U.S. Patent No. 6,883,101) in view of Converse et al. (U.S. Patent Publication No. 2002/0143963). The Examiner has rejected Claims 37-38 et al. under 35 U.S.C. 103(a) as being unpatentable over Fox in view of Converse, in further view of Applicant Admitted Prior Art.

With respect to each of the independent claims, the Examiner has relied, in part, on Col. 3, line 19-Col. 4, line 4; Figure 8B; Col. 6, lines 1-40; and Col. 4, lines 18-20 in Fox to make a prior art showing of applicant's claimed "initiating a risk assessment scan on a target from a remote source utilizing a network." Applicant notes that the Examiner has argued that such excerpts teach "network risk/vulnerability analyzer programs assessing risk on the network nodes remotely" (emphasis added). Applicant, however, claims that the "risk assessment scan [is] on a target" and that the scan is only initiated remotely. Clearly, assessing vulnerabilities remotely teaches away from running a risk assessment scan on a target, in the manner claimed by applicant.

Nevertheless, for further clarification of such distinction, applicant has amended each of the independent claims to include the "risk assessment scan at and on a target."

Still with respect to each of the independent claims, the Examiner has relied, in part, on Col. 4, lines 18-20; Col. 6, lines 1-39; and Col. 7, lines 42-46 in Fox to make a prior art showing of applicant's claimed "determining whether the risk assessment scan on the target involves an intermediate device coupled between the target and the remote source... wherein a plurality of procedures are utilized to determine whether the risk assessment scan involves the intermediate device" (Claims 1 et al.) and "executing a plurality of procedures to determine whether the risk assessment scan on the target involves a proxy server coupled between the target and the remote source" (Claims 37 et al.).

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Applicant respectfully asserts that such excerpts only disclose "merging results from the network vulnerability analysis programs and determining the vulnerability posture of the network" (Col. 4, lines 18-20), "data gathering[,]...building a model, and perform[ing] analyses on the model" (Col. 6, lines 1-39), and "filters...[that] allow only that data required by a respective network vulnerability programs to be exported to the tool (program)" (Col. 7, lines 42-46).

Clearly, such excerpts do not even suggest "<u>determining</u> whether the <u>risk</u> <u>assessment scan</u> on the target <u>involves an intermediate device</u> coupled between the target and the remote source...[utilizing a] plurality of procedures," in the manner claimed by applicant (Claim 1 et al.-emphasis added) or "executing a plurality of procedures to <u>determine</u> whether the <u>risk assessment scan</u> on the target <u>involves a proxy server</u> coupled between the target and the remote source" (Claims 37 et al.-emphasis added). In fact, applicant notes that nowhere in the entire Fox reference is there even a determination of whether a scan involves an <u>intermediate device</u>, and especially not in the specific manner claimed by applicant.

Furthermore, the Examiner has relied on Col. 2, lines 56-63 in Fox to make a prior art showing of applicant's claimed "receiving results of the risk assessment scan from the target utilizing the network." Applicant respectfully asserts that such excerpt only discloses "generat[ing] system models used by analysis tools" and that "a tool can actively scan a computer network to test various vulnerabilities." Clearly, such teachings do not even relate to any sort of <u>results</u>. In addition, since Fox only teaches risk assessment scans performed remotely, results of the risk assessment scan could <u>not</u> be received <u>from the target on which the scan was performed,</u> in the context claimed by applicant.

The Examiner has also relied on paragraphs [0025]-[0026] in Converse and Col. 11 and Col. 12 in Fox to make a prior art showing of applicant's claimed "notifying an administrator if it is determined that the risk assessment scan on the target involves the intermediate device, wherein additional operations are carried out to improve a risk

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assessment on the target in view of the presence of the intermediate device coupled between the target and the remote source" (Claim 1 et al.) and "notifying an administrator if the results of the risk assessment scan on the target are flagged; wherein additional operations are carried out to improve a risk assessment on the target in view of the presence of the proxy server coupled between the target and the remote source" (Claim 37 et al.).

First, applicant respectfully asserts that the only notification disclosed in Converse relates to forwarding a request to software so that a software designer or web server administrator may decide whether to grant the request. Clearly, such disclosure does not even suggest a notification in the context claimed by applicant, namely when "it is determined that the risk assessment scan on the target involves the intermediate device" (Claim 1 et al.) and "the results of the risk assessment scan on the target are flagged" (Claim 37 et al.), in the contexts claimed by applicant.

Second, Col. 11 and Col. 12 in Fox only relate to merging processing results among a plurality of risk assessment scanners. Simply nowhere in Fox is there any teaching of "additional operations [that] are carried out to improve a risk assessment on the target in view of the presence of the intermediate device coupled between the target and the remote source" (Claim 1 et al.) or "additional operations [that] are carried out to improve a risk assessment on the target in view of the presence of the proxy server coupled between the target and the remote source as claimed by applicant" (Claim 37 et al.) as claimed by applicant (emphasis added).

Again, applicant respectfully asserts that at least the third element of the *prima facie* case of obviousness has not been met, since the prior art references, when combined, fail to teach or suggest all of the claim limitations, as noted above. A notice of allowance or a specific prior art showing of all of applicant's claim limitations, in combination with the remaining claim elements, is respectfully requested.

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Applicant further notes that the prior art is also deficient with respect to the dependent claims. Just by way of example, with respect to Claim 4 et al., the Examiner has relied on paragraphs [0025-0026] in Converse to make a prior art showing of applicant's claimed technique "wherein at least one of the procedures includes determining a port list associated with the risk assessment scan." Applicant respectfully asserts that such excerpts only disclose "undesirable IP addresses." Clearly, IP addresses do not meet applicant's claimed "port list."

With respect to Claim 5 et al., the Examiner has again relied on paragraphs [0025-0026] in Converse to make a prior art showing of applicant's claimed technique "wherein the at least one of the procedures further includes determining whether a value of a flag is different for communication attempts using at least two ports on the port list." The Examiner has specifically argued that such excerpts teach that "if the value of the flag is positive/IP address is not on the list/different..." First, applicant respectfully asserts that IP addresses do not even suggest a port list, as claimed. Second, Converse does not mention "communication attempts using at least two ports" and thus does not teach "determining whether a value of a flag is different for communication attempts using at least two ports on the port list," as claimed by applicant (emphasis added).

With respect to Claim 9 et al., the Examiner has relied on Claims 1 and 2 in Converse to make a prior art showing of applicant's claimed technique "wherein the at least one of the procedures further includes indicating that the risk assessment scan involves the intermediate device if the value of the flag is different for the communication attempts using the at least two ports on the port list." The Examiner has specifically argued that Converse teaches that "if the communication request IP address is different to the predetermined list, identifying the communication request node as unauthorized node/intermediate node." Applicant again respectfully asserts that IP addresses do not meet a port list, as claimed by applicant. Furthermore, Converse does not even suggest "communication attempts using at least two ports" and thus does not meet applicant's claimed "indicating that the risk assessment scan involves the

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intermediate device if the value of the flag is different for the communication attempts using the at least two ports on the port list."

Since at least the third element of the *prima facie* case of obviousness has not been met, a notice of allowance or a proper prior art showing of all of the claim limitations, in the context of the remaining elements, is respectfully requested.

Thus, all of the independent claims are deemed allowable. Moreover, the remaining dependent claims are further deemed allowable, in view of their dependence on such independent claims.

In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (408) 505-5100. The Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 50-1351 (Order No. NAI1P012/01.132.01).

Respectfully submitted,
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